



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(Puerto Rico Sugar Order No. 7)

ALLOTMENT OF THE QUOTA FOR PUERTO RICO

Order Made by the Secretary of Agriculture under the Sugar Act of 1937

**UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.**

By virtue of the authority vested in the Secretary of Agriculture by The Sugar Act of 1937, approved September 1, 1937, I, H. A. WALLACE, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, issue, publish and give public notice of this order, which shall have the force and effect of law and shall continue in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

I

Whereas, General Sugar Quota Regulations, Series 4, No. 2, as amended by Supplement 3, establishes for Puerto Rico, for the calendar year 1937, a quota of 883,303 short tons of sugar, raw value, and

Whereas, I hereby find that the total surplus stocks of Puerto Rican sugar in excess of the aforesaid quota and the estimated requirements for local consumption in Puerto Rico for the calendar year 1937 amount to approximately 153,000 tons of sugar, raw value, and

Whereas, I hereby find that the allotment of the sugar quota established for Puerto Rico for consumption in continental United States for the calendar year 1937 is necessary in order to prevent disorderly marketing of sugar from such area.

II

Now, THEREFORE, upon the basis of the foregoing findings and pursuant to the foregoing authority, it is hereby ordered:

1. That the aforesaid quota of 883,303 short tons of sugar, raw value, shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor	Allotment from processing	Allotment from surplus stocks	Marketing allotment
(1) Aguirre-----	95,413	12,000	107,413
(2) Cambalache-----	34,637	2,763	37,400
(3) Canovanas-----	29,817	2,934	32,751
(4) Carmen-----	13,902	1,203	15,105
(5) Coloso-----	31,655	2,545	34,200

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Name of processor	Allotment from processing	Allotment from surplus stocks	Marketing allotment
(6) Constancia-Toa	19,704	1,276	20,980
(7) El Ejemplo	11,734	1,125	12,859
(8) Eureka	11,272	733	12,005
(9) Fajardo	58,112	5,927	64,039
(10) Guanica	90,844	9,967	100,811
(11) Guamani	10,964	959	11,923
(12) Herminia	1,778	115	1,893
(13) Igualdad	11,955	1,063	13,018
(14) Juanita	15,562	1,008	16,570
(15) Lafayette	28,394	2,667	31,061
(16) Plazuela-Los Canos	34,773	2,315	37,088
(17) Monserrate	11,012	1,033	12,045
(18) Pellejas	1,353	88	1,441
(19) Plata	9,902	641	10,543
(20) Playa Grande	7,312	619	7,931
(21) Rochelaise	8,230	844	9,074
(22) Roig	26,361	2,436	28,797
(23) Rufina	26,360	3,267	29,627
(24) San Vicente	29,364	2,440	31,804
(25) Santa Barbara	2,521	265	2,786
(26) Soller	5,008	324	5,332
(27) Vannina	13,195	854	14,049
(28) Victoria	15,875	1,213	17,088
(29) Eastern Sugar Associates	81,343	9,857	91,200
(30) San Francisco	5,612	509	6,121
(31) Caribe	6,309	409	6,718
(32) Constancia-Ponce	8,033	768	8,801
(33) Mercedita	31,988	2,681	34,669
(34) Boca Chica	14,287	1,874	16,161
Total	804,581	78,722	883,303

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1937, any sugar from Puerto Rico in excess of the marketing allotments set forth in paragraph 1 hereof.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

4. That where surplus stocks of sugar have been processed from growers' surplus sugarcane and settlement with growers has been made in terms of sugar, such growers' surplus sugar shall share in the allotment herein made to the processor on a pro rata basis.



IN TESTIMONY WHEREOF, H. A. WALLACE, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 28th day of September, 1937.

H. Wallace

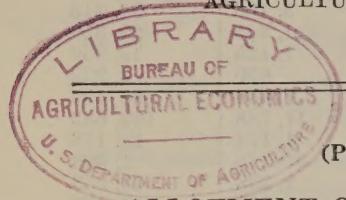
Secretary of Agriculture.

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UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

WASHINGTON, D. C.



(Puerto Rico Sugar Order No. 8)

ALLOTMENT OF THE QUOTA FOR PUERTO RICO

Order Made by the Secretary of Agriculture under the Sugar Act of 1937

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by The Sugar Act of 1937, approved September 1, 1937, I, M. L. WILSON, Acting Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, issue, publish and give public notice of this order (constituting a revision of and superseding Puerto Rico Sugar Order No. 7), which shall have the force and effect of law and shall continue in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

I

Whereas, General Sugar Quota Regulations, Series 4, No. 2, as amended by Supplement 3 and Supplement 4, establishes for Puerto Rico for the calendar year 1937 a quota of 897,063 short tons of sugar, raw value, and

Whereas, I hereby find that the total surplus stocks of Puerto Rican sugar in excess of the aforesaid quota and the quota for local consumption in Puerto Rico for the calendar year 1937, established pursuant to General Sugar Quota Regulations, Series 4, No. 3, amount to approximately 151,000 tons of sugar, raw value, and

Whereas, I hereby find that the allotment of the sugar quota established for Puerto Rico for consumption in continental United States for the calendar year 1937 is necessary in order to prevent disorderly marketing of sugar from such area.

II

Now, THEREFORE, upon the basis of the foregoing findings and pursuant to the foregoing authority, it is hereby ordered:

1. That the aforesaid quota of 897,063 short tons of sugar, raw value, shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor	Allotment from processing	Allotment from surplus stocks	Marketing allotment
(1) Aguirre-----	95, 413	13, 939	109, 352
(2) Cambalache-----	34, 637	3, 438	38, 075
(3) Canovanas-----	29, 817	3, 526	33, 343
(4) Carmen-----	13, 902	1, 476	15, 378
(5) Coloso-----	31, 655	3, 163	34, 818
(6) Constancia-Toa-----	19, 704	1, 655	21, 359
(7) El Ejemplo-----	11, 734	1, 125	12, 859
(8) Eureka-----	11, 272	950	12, 222
(9) Fajardo-----	58, 112	7, 084	65, 196
(10) Guanica-----	90, 844	11, 788	102, 632
(11) Guamani-----	10, 964	1, 174	12, 138
(12) Herminia-----	1, 778	115	1, 893
(13) Igualdad-----	11, 955	1, 298	13, 253
(14) Juanita-----	15, 562	1, 008	16, 570
(15) Lafayette-----	28, 394	3, 228	31, 622
(16) Plazuela-Los Canos-----	34, 773	2, 985	37, 758
(17) Monserrate-----	11, 012	1, 251	12, 263
(18) Pellejas-----	1, 353	88	1, 441
(19) Plata-----	9, 902	831	10, 733
(20) Playa Grande-----	7, 312	762	8, 074
(21) Rochelaise-----	8, 230	1, 008	9, 238
(22) Roig-----	26, 361	2, 436	28, 797
(23) Rufina-----	26, 360	3, 802	30, 162
(24) San Vicente-----	29, 364	3, 014	32, 378
(25) Santa Barbara-----	2, 521	265	2, 786
(26) Soller-----	5, 008	324	5, 332
(27) Vannina-----	13, 195	1, 108	14, 303
(28) Victoria-----	15, 875	1, 213	17, 088
(29) Eastern Sugar Associates-----	81, 343	11, 594	92, 847
(30) San Francisco-----	5, 612	620	6, 232
(31) Caribe-----	6, 309	530	6, 839
(32) Constancia-Ponce-----	8, 033	927	8, 960
(33) Mercedita-----	31, 988	2, 681	34, 669
(34) Boca Chica-----	14, 287	2, 166	16, 453
Total-----	804, 581	92, 482	897, 063

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1937, any sugar from Puerto Rico in excess of the marketing allotments set forth in paragraph 1 hereof.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

4. That where surplus stocks of sugar have been processed from growers' surplus sugarcane and settlement with growers has been made in terms of sugar, such growers' surplus sugar shall share in the allotment herein made to the processor on a pro rata basis.

IN TESTIMONY WHEREOF, M. L. WILSON, Acting Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 18th day of December, 1937.



M. L. Wilson

Acting Secretary of Agriculture.



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(Puerto Rico Sugar Order No. 9)

ALLOTMENT OF THE DIRECT-CONSUMPTION PORTION OF THE 1938
SUGAR QUOTA FOR PUERTO RICO

Order made by the Secretary of Agriculture under the Sugar Act of 1937

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937, I, H. A. WALLACE, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, issue, publish and give public notice of this order, which shall have the force and effect of law and shall continue in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

I

Whereas, General Sugar Quota Regulations, Series 5, No. 1, establishes for Puerto Rico for the calendar year 1938 a quota of 819,344 short tons of sugar, raw value, of which 126,033 short tons of sugar, raw value, may be filled by direct-consumption sugar, and

Whereas, the Secretary of Agriculture on January 14, 1938, held a public hearing in Washington, D. C. for the purpose of receiving evidence to enable him to make a fair, efficient and equitable distribution of that portion of the 1938 sugar quota for Puerto Rico which may be filled by direct-consumption sugar, and

Whereas, I hereby find that the allotment of that portion of the said quota which may be filled by direct-consumption sugar is necessary in order to prevent disorderly marketing of direct-consumption sugar from such area.

II

Now, THEREFORE, upon the basis of the foregoing finding and pursuant to the foregoing authority, it is hereby ordered:

1. That the said quantity of 126,033 short tons, raw value, of direct-consumption sugar shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	Direct-consumption allotment (short tons, raw value)
Porto Rico American Sugar Refinery, Inc.	93,406
Aguirre	3,464
Carmen	81
Guanica	3,914
Igualdad	5,741
Roig	11,768
San Francisco	1,947
	120,321
Unallotted reserve for marketings of raw sugar for direct-consumption	5,712
Total	126,033

2. That the above named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct-consumption) from Puerto Rico in excess of the marketing allotments set forth in paragraph 1 hereof.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

In Testimony Whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 30th day of March, 1938.



H. A. Wallace

Secretary of Agriculture.



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(Puerto Rico Sugar Order No. 10)

**DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING
THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA
FOR PUERTO RICO**

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provides that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within any area's quota. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. This preliminary finding may be changed or modified on the basis of the record obtained at the hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *.

The hearing was held at Washington, D. C., on the date specified in the notice. No evidence was presented at the hearing held on January 14, 1938, which in any way indicated that the preliminary finding of the Secretary should not be confirmed. The preliminary finding was based upon information which the Secretary had to the effect

that Puerto Rican processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 tons of direct-consumption sugar during the calendar year 1938. The evidence presented at the hearing indicated a plant capacity of 402,000 tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it is probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than can be shipped to the continental United States during any calendar year. This would result in disorderly marketing of sugar.

Section 205 (a) of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient and equitable distribution of such quota, or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

The other two standards given in the act, namely, "past marketings" and "ability * * * to market," are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

In determining "ability * * * to market", it is apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar

Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar.

Of the processors appearing at the hearing, all presented testimony bearing on the operating capacity of their respective mills. The testimony in this respect may be summarized as follows:¹

Porto Rico American Sugar Refinery: 700 tons per day, or, on the basis of 300 operating days per year, 210,000 tons per annum (pp. 62 and 82 of record).

Central Aguirre Sugar Company: 8,000 to 9,000 tons per annum (p. 125 of record).

Central Guanica: 50,000 tons per annum (p. 128 of record).

Central Igualdad: 225 tons per day, or, on the basis of 300 operating days per year, 67,500 tons per annum (p. 77 of record).

Central Roig: 200 tons per day (pp. 170 and 174 of record).

The actual shipments of direct-consumption sugar to the continental United States between January 1, 1938, and March 22, 1938, as shown by official records of the Department of Agriculture, are as follows:²

Processors	Short Tons, Raw Value
Porto Rico American Sugar Refinery-----	46, 866
Central Aguirre-----	1, 970
Central Carmen-----	
Central Guanica-----	
Central Igualdad-----	1, 124
Central Roig-----	8, 070
Central San Francisco-----	795

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation.

The testimony as to the past marketings of Porto Rico American Refinery and Central Aguirre may be summarized as follows:³

	Short Tons, Raw Value		
	1935	1936	1937
Porto Rico American Sugar Refinery ¹ -----	116, 611	109, 942	99, 227
Central Aguirre ² -----	2, 600	2, 350	5, 460

¹ p. 60 of record.

² p. 126 of record.

³ No testimony was given on behalf of Central Carmen and Central San Francisco.

² These figures are taken from forms (Form SS-3) which importers, under regulations of the Secretary of Agriculture, are required to execute under oath and file with Collectors of Customs. The completed forms showing the kind of sugar, amount, and other pertinent data are forwarded by the Collectors of Customs to the Department of Agriculture.

³ The figures are substantially correct, although somewhat at variance with the official statistics of the Department. However, the differences are small, as will be shown by comparison with the official figures hereinafter set forth in the Findings of Fact. In calculating past marketings, the figures used are those taken from the official statistics of the Department, collected in the manner stated in footnote 2, *supra*. The use of the official statistics instead of figures contained in the record gives no important differences in result.

The witness testifying on behalf of Central Guanica stated that it was given an allotment in 1935 but did not fill that allotment by "a substantial amount" (p. 130 of record). The official records of the Department show that Central Guanica shipped only 1,015 short tons, raw value, of direct-consumption sugar in 1935 and none in either of the other two years, 1936 and 1937.

The witness testifying on behalf of Central Roig stated that the company shipped 16,210⁴ short tons in 1937 (p. 181 of the record). No testimony was offered as to other years, but the official records of the Department show that Central Roig shipped 2,778 short tons, raw value, in 1936 and none in 1935.

Central Igualdad, Central Carmen, and Central San Francisco offered no testimony in regard to past marketings of direct-consumption sugar. However, the official records of the Department show the following marketings for these three companies for the years indicated:

Processor	Short Tons, Raw Value		
	1935	1936	1937
Central Carmen		264	
Central Igualdad	163	438	52
Central San Francisco	2,463	2,590	1,981

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935-1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9 containing allotments identical with those made in this Order but without the issuance of a statement of the facts and grounds for his decision. It is, therefore, deemed advisable to reissue the Order with a full statement of the facts and grounds for the allotments herein-after made.

On the basis of the record of the hearing and official records of the Department of Agriculture used to the extent hereinbefore stated, I hereby find:

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 401,500 tons of such sugar during the calendar year 1938.

⁴ Footnote 3, *supra*, is applicable to this figure.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor	Rated Refining Capacity per annum—300-day basis
Porto Rico American Sugar Refinery	210,000
Central Aguirre	8,500
Central Carmen	500
Central Guanica	50,000
Central Igualdad	67,500
Central Roig	60,000
Central San Francisco	5,000
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	401,500

3. That shipments of direct-consumption sugar from Puerto Rico to the continental United States between January 1, 1938, and March 22, 1938, were as follows:

Processor	Short Tons
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	—
Central Guanica	—
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

4. That during the years 1935, 1936, and 1937, Puerto Rican processors shipped direct-consumption sugar to the continental United States in the following amounts:

	Puerto Rican Direct Consumption Entries (Refined and Turbinado) into the U. S. (In terms of short tons raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig	2,463	2,778	16,204
Central San Francisco		2,590	1,981
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	122,971	118,511	121,502

On the basis of the foregoing, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made by giving equal weight to past marketings during the years 1935, 1936, and 1937, and ability to market as measured by present plant capacity and actual marketings of direct-consumption sugar between January 1, 1938, and March 22, 1938.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the said quantity of 126,033 short tons, raw value, of direct-consumption sugar shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of Processor	Direct-consumption allotment (short tons, raw value)
Porto Rico American Sugar Refinery-----	93, 406
Aguirre-----	3, 464
Carmen-----	81
Guanica-----	3, 914
Igualdad-----	5, 741
Roig-----	11, 768
San Francisco-----	1, 947
	120, 321
Unallotted reserve for marketings of raw sugar for direct consumption-----	5, 712
Total-----	126, 033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary of Agriculture or his duly appointed agent.

4. That this Order shall supersede Puerto Rico Sugar Order No. 9, issued by the Secretary on March 30, 1938.



IN TESTIMONY WHEREOF, M. L. WILSON, Acting Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 19th day of April, 1938.

M. L. Wilson

Acting Secretary of Agriculture.



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(Puerto Rico Sugar Order No. 11)

SEP 1
1938

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provide that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quota among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that Puerto Rico processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 short tons of direct-consumption sugar during the calendar year 1938.

The hearing was held at Washington, D. C., on the date specified in the notice. The evidence presented at the hearing indicated that the preliminary finding of the Secretary should be confirmed. Such evidence indicated a plant capacity of 401,500 short tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it was deemed probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than could be shipped to the continental United States during any calendar year. This, it was concluded, would result in disorderly marketing of sugar.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9, allotting that portion of the 1938 Puerto Rico sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. On April 19, 1938, the Secretary issued Puerto Rico Sugar Order No. 10, which superseded the order of March 30, 1938, and which contains allotments identical with those made in the first order, together with a full statement of the facts and grounds for his decision.

Section 205 (a) of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

On April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving evidence to enable him to revise or amend Puerto Rico Sugar Order No. 10 in accordance with the provisions of section 205 (a) of the act. The hearing was held on May 3 as specified in the notice and was concluded on May 4. The following companies interested in marketing direct-consumption sugar in the continental United States during 1938 were represented at the hearing:

Porto Rico American Sugar Refinery,
Central Aguirre,
Central Guanica,
Central Igualdad,
Central Roig,
Camuy Sugar Co.

Puerto Rico Sugar Order No. 10 states the basis for allotments therein made as follows:

"The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

"The other two standards given in the act, namely, 'past marketings' and 'ability * * * to market,' are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

"In determining 'ability * * * to market,' it is apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. [The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, contained a finding to the effect that allotment of the direct-consumption sugar was necessary, and processors were thereby put on notice that allotments for 1938 would likely be made.] Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar."

Since section 205 (a) of the act requires that the Secretary, in revising or amending an allotment order, use the same basis used in making the initial allotment, it is necessary in this Order to apply the same basic formula as was used in Puerto Rico Sugar Order No. 10.

The evidence presented at the hearings of January 14 and May 3 in regard to mill refining capacity in terms of short tons, refined value, may be summarized as follows:

Porto Rico American Sugar Refinery: 700 to 800 tons per day (pages 29, 48, 62, 65, and 324 of record of hearing held on January 14).

Central Aquirre: 8,000 to 9,000 tons per annum (page 125 of record of hearing held on January 14).

Central Guanica: 50,000 tons per annum (page 128 of record of hearing held on January 14).

Central Igualdad: 220 tons per day (pages 103, 194, and 199 of record of hearing held on May 3).¹

Central Roig: 210 tons per day (page 273 of record of hearing held on May 3).²

No testimony was given either at the hearing of January 14 or of May 3 bearing on the mill refining capacity of Central Carmen and Central San Francisco. It is, therefore, necessary to take 1936³ entries of direct-consumption sugar into the continental United States as the mill capacity for these companies. In 1936, Central Carmen brought into the continental United States 264 short tons, raw value, of direct-consumption sugar, or 247 short tons, refined value, and Central San Francisco brought in during the same year 2,590 short tons, raw value, of direct-consumption sugar, or 2,421 short tons, refined value. (Government Exhibit No. 3.)

The actual quantities of Puerto Rican direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938 (Government Exhibit No. 3), were as follows:

	Short tons, raw value
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	—
Central Guanica	—
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795
	58,825

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive

¹ The record of the hearing held on January 14 indicated a maximum capacity of 225 tons per day, but the same witness who testified in regard to plant capacity at the first hearing testified at the hearing of May 3 (page 199 of record) that 200 to 225 tons per day is more nearly correct. In view of the fact that a test run has shown 220 tons per day (page 103 of record of hearing held on May 3), this figure is taken as the rated mill capacity instead of 212.5 tons per day which would be taken in the absence of testimony showing actual performance in excess of that figure.

² Although the record of the hearing on January 14 indicated a rated plant capacity of 200 tons per day (pp. 170 and 174 of record), the fact that the company has actually exceeded that figure indicates that the rated capacity should be something in excess of 200 tons per day. The testimony shows (page 273 of record of hearing held on May 3) that the company has actually produced an average of 210 tons of sugar per day over a period of several days. Hence 210 tons per day is taken as the rated plant capacity.

³ Being the year in which Centrals Carmen and San Francisco brought in more direct-consumption sugar than in any other year of the period 1935-1937, inclusive. (Government Exhibit No. 3.)

program such as that provided for under the present and prior sugar legislation. The marketing history ⁴ for these years (Government Exhibit No. 3) is as follows:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery-----	116, 611	109, 945	97, 498
Central Aguirre-----	2, 719	2, 496	5, 767
Central Carmen-----		264	-----
Central Guanica-----	1, 015	-----	-----
Central Igualdad-----	163	438	52
Central Roig-----		2, 778	16, 204
Central San Francisco-----	2, 463	2, 590	1, 981
	122, 971	118, 511	121, 502

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935-1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On the basis of the record of the hearings held on January 14, 1938, and May 3, 1938, I hereby find:⁵

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 415,168 short tons, refined value,⁶ of sugar during the calendar year 1938.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor:		Rated refining capacity per annum, 300-day basis
Porto Rico American Sugar Refinery-----		225,000
Central Aguirre-----		8,500
Central Carmen-----		247
Central Guanica-----		50,000
Central Igualdad-----		66,000
Central Roig-----		63,000
Central San Francisco-----		2,421
		415,168

⁴ Sugar from outside the continental United States cannot be "marketed" within the meaning of the act until after release from customs custody.

⁵ Since section 205 (a) of the act requires that allotment be made "to persons who market or import sugar", no allotment can be made to Camuy Sugar Company, inasmuch as that company is not engaged in the manufacture of direct-consumption sugar at the present time.

⁶ 300 working days per year.

3. That the quantities of direct-consumption sugar certified for entry into the continental United States from Puerto Rico between January 1, 1938, and March 22, 1938, were as follows:

Processor:	Short tons, raw value
Porto Rico American Sugar Refinery-----	46,866
Central Aguirre-----	1,970
Central Carmen-----	-----
Central Guanica-----	-----
Central Igualdad-----	1,124
Central Roig-----	8,070
Central San Francisco-----	795

4. That during the years 1935, 1936, and 1937, Puerto Rican processors brought direct-consumption sugar (refined and turbinado) into the continental United States for consumption therein in the following amounts:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery-----	116,611	109,945	97,498
Central Aguirre-----	2,719	2,496	5,767
Central Carmen-----	-----	264	-----
Central Guanica-----	1,015	-----	-----
Central Igualdad-----	163	438	52
Central Roig-----	-----	2,778	16,204
Central San Francisco-----	2,463	2,590	1,981
	122,971	118,511	121,502

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearings of January 14 and May 3, 1938, and the objections and arguments filed in opposition to the proposed order⁷ revising the allotments made in Puerto Rico Sugar Order No. 10, issued April 19, 1938, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made by giving equal weight to (1) past marketings during the years 1935, 1936, and 1937, and (2) ability to market, measured by giving equal weight to present plant capacity and the quantities of direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938.

⁷ Following the hearing of May 3, the Secretary, on May 14, 1938, issued a proposed order which was published in the FEDERAL REGISTER on May 17, 1938. Interested persons were given until May 24, 1938, in which to file objections to the proposed order. Objections were filed by Central San Francisco, Central Roig, and Central Igualdad. Since all interested persons were given ten days in which to file written objections to the proposed order, petitions for oral argument are hereby denied.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the allotments contained in Puerto Rico Sugar Order No. 10 shall be, and they are hereby, revised, and the said quantity of 126,033 short tons, raw value, of direct-consumption sugar is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	<i>Direct-consumption allotment (short tons, raw value)</i>
Porto Rico American Sugar Refinery	93, 975
Aguirre	3, 443
Carmen	62
Guanica	3, 791
Igualdad	5, 465
Roig	11, 837
San Francisco	1, 748
	<hr/>
Unallotted reserve for marketings of raw sugar for direct consumption	120, 321
	<hr/>
	5, 712
	<hr/>
	126, 033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That this order shall supersede Puerto Rico Sugar Order No. 10, issued by the Secretary on April 19, 1938.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 1st day of June 1938.



H. A. Wallace
Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE
 SUGAR DIVISION
 Washington, D.C.

(Puerto Rico Sugar Order No. 11, Supplement 1)

SUPPLEMENT TO DECISION AND ORDER OF SECRETARY OF AGRICULTURE
 ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938
 SUGAR QUOTA FOR PUERTO RICO.

Pursuant to notice of hearing issued October 6, 1938, a hearing was held in Washington, D. C., on October 25-26, 1938, for the purpose, among others, of amending Puerto Rico Sugar Order No. 11, issued June 1, 1938, by allotting among Puerto Rican processors of direct-consumption sugar the portion of the unallotted reserve established therein which was unfilled on November 15, 1938.

Section 205(a) of the Sugar Act of 1937 (hereinafter referred to as the "act") provides, in part, as follows:

"The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made."

In view of this provision of the act, it is necessary in allotting the unallotted reserve to apply the same basic formula as was used in Puerto Rico Sugar Order No. 11.

The amount of the unallotted reserve set out in Puerto Rico Sugar Order No. 11, is 5,712 short tons of sugar, raw value. As of November 15, 1938, the records of the Department of Agriculture show that only 200 short tons of sugar, raw value, have been charged against this unallotted reserve.

The processors receiving an allotment under Puerto Rico Sugar Order No. 11 offered no testimony at the hearing in opposition to the allotment of the unallotted reserve, nor did they offer any testimony in support of a change in the basic figures underlying the allotments set forth in that order.^{1/} Therefore, employing the same basis of allotment as was applied in Puerto Rico Sugar Order No. 11, the per centum of the unallotted reserve applicable to each processor

^{1/} The representative of Central Igualdad contended that the unallotted reserve should be allotted on a different basis from that used in establishing the initial allotments (R.p.145), but such procedure would not comply with the provisions of section 205(a) of the act.

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 U. S. Department of Agriculture

would be as follows:^{2/}

	<u>Per Centum</u>
Porto Rico American Sugar Refinery	78.104
Aguirre	2.862
Carmen	0.052
Guanica	3.150
Igualdad	4.542
Roig	9.838
San Francisco	1.452

On the basis of the record of the hearing of October 25-26, 1938, and the official statistics of the Department of Agriculture, I hereby find:

(1) That as of November 15, 1938, the unfilled balance of the unallotted reserve established in Puerto Rico Sugar Order No. 11, was 5,512 short tons of sugar, raw value.

(2) That upon the basis of the formula used in establishing the allotments in Puerto Rico Sugar Order No. 11, the per centum of the said unfilled balance of the unallotted reserve for each Puerto Rican processor is as follows:

	<u>Per Centum</u>
Porto Rico American Sugar Refinery	78.104
Aguirre	2.862
Carmen	0.052
Guanica	3.150
Igualdad	4.542
Roig	9.838
San Francisco	1.452

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearing of October 25-26, 1938, it is hereby ordered that the allotments set forth in Puerto Rico Sugar Order No. 11 be, and they hereby are, increased as follows:

^{2/} Expert testimony on behalf of the Camuy Sugar Company indicates a mill refining capacity for that company of 100 short tons of sugar per day (R. p. 65). Applying the basis used in Puerto Rico Sugar Order No. 11, this company would be entitled to 1.684 per centum of the unallotted reserve. However, in view of the statement of the representative of the Camuy Sugar Company that the company would be unable to market any direct-consumption sugar in 1938 (R. pp. 57, 58), no allotment can be made to it from the unallotted reserve.

	Additional direct- consumption allot- ment (short tons, raw value)
Porto Rico American Sugar Refinery	4,305
Aguirre	158
Carmen	3
Guanica	174
Igualdad	250
Roig	542
San Francisco	80
	<hr/> 5,512

In testimony whereof, H. A. Wallace,
Secretary of Agriculture, has hereunto set
his hand and caused the official seal of
the Department of Agriculture to be affixed
in the City of Washington, District of
Columbia, this 25th day of November 1938.

H. A. Wallace
Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

WASHINGTON, D. C.

(Puerto Rico Sugar Order No. 12)

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING
THE 1938 SUGAR QUOTAS FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, Rev. 1, issued by the Secretary of Agriculture on June 9, 1938, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), establish a 1938 sugar quota for Puerto Rico for the continental United States of 809,649 short tons, raw value.¹ General Sugar Quota Regulations, Series 5, No. 2, issued by the Secretary of Agriculture on December 28, 1937, establish a 1938 sugar quota for Puerto Rico for local consumption of 73,851 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1938 Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to sections

¹ These regulations also provide that 126,033 short tons, raw value, of this quota may be filled by direct-consumption sugar, the allotment of which was made in Puerto Rico Sugar Order No. 11, issued June 1, 1938.

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202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that, for the calendar year 1938, Puerto Rican processors have an apparent excess of supplies over quota requirements of approximately 244,000 short tons of sugar.

The hearing was held in Washington, D. C., on the date specified in the notice. The evidence presented at that hearing was found inadequate to enable the Secretary to make a fair, efficient, and equitable distribution of the 1938 United States sugar quota for Puerto Rico and the 1938 Puerto Rican sugar quota for local consumption. Accordingly, on April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving additional evidence to enable him to make a fair, efficient, and equitable distribution of such quotas. The notice of the hearing also contained a confirmation by the Secretary of his prior finding of December 31, 1937, to the effect that the allotment of the 1938 quotas for Puerto Rico is necessary to prevent the disorderly marketing and importation of sugar. The hearing was held on May 3, as specified in the notice, and was concluded on May 4.

The evidence presented at the hearing of May 3 indicated that the preliminary finding of the Secretary regarding the necessity for allotment of the quotas should be confirmed. Such evidence (p. 117 of the record) indicated that, for the calendar year 1938, there would be available for market in Puerto Rico approximately 1,137,000 short tons of sugar, consisting of 137,000 short tons of sugar in stocks carried over from prior years, and an estimated out-turn of the 1938 crop of approximately 1,000,000 tons. Since the quota requirements for 1938, both for the continental United States and for local consumption, are 883,500 short tons, raw value, Puerto Rican processors will have available for market an excess of supplies over quota requirements of approximately 253,000 short tons of sugar. Under these conditions, it is concluded that, without allotment of these quotas, disorderly marketing of sugar will result.

Section 205 of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

Under section 302 (a) of the act the Secretary is required to fix proportionate shares of sugar beets or sugarcane for farms in each domestic sugar-producing area on the basis of which payments authorized in title III of the act are to be made. The proportionate share for a farm represents a share of the quantity of sugar beets or sugarcane for the extraction of sugar required to be processed to enable the producing area in which the farm is located to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for the calendar year during which the larger part of the sugar from the crop of sugar beets or sugarcane normally would be marketed. Section 301 of the act provides, as a condition of payment,

that there shall not be marketed (or processed) an amount of sugar beets or sugarcane grown on the farm and used for the extraction of sugar in excess of the proportionate share for the farm.²

“Marketing allotments” made to Puerto Rican producers of sugarcane under the Jones-Costigan Act are equivalent to “proportionate shares” made to such producers under the present act. These marketing allotments for the calendar year 1936 were obtained as follows:

(a) A marketing allotment for each mill area was first computed on the basis of the average sugar production in such area during the years 1931, 1932, and 1934, adjusted to the estimated Puerto Rican sugar quota for 1936; and

(b) The base production of each producer was adjusted to the marketing allotment for the mill area in which the producer was located.

The base production of each producer, adjusted to the marketing allotment for the mill area in which he was located, became the producer's 1936 marketing allotment.

The 1936 marketing allotment of the processor was equal to the sum of the 1936 marketing allotments of individual growers whose sugarcane was ground by the processor in 1936.³ These marketing allotments to processors were approved and ratified by the Congress in Public Resolution No. 109, approved June 19, 1936, which amended the Jones-Costigan Act.

Public Resolution No. 109 further provided that the Secretary might allot any sugar quota on the basis of prior allotments made under the Jones-Costigan Act. Accordingly, allotment of the 1937 Puerto Rican sugar quota was made on the basis of the 1937 marketing allotments⁴ to individual growers, and such individual growers' allotments were computed by adjusting the 1936 marketing allotments of individual growers to the 1937 sugar quota.

In view of the intention of Congress to hold the marketings of sugar beets and sugarcane for sugar within the limits of quota requirements, as expressed in title III of the act, and in view of the further fact that allotments to processors for the past two years under similar legislation have been made on the basis of marketing allotments to producers, it is concluded that, in order to provide a fair, efficient, and equitable distribution of the quotas for Puerto Rico, allotments should be made on the basis of the first standard stated in the act, namely, the processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 of the act, pertain.

The use of either or both of the other two standards given in the act (except insofar as “past marketings” are reflected in the determination of proportionate shares), namely, “past marketings” and “ability * * * to market”, would not provide a fair, efficient, and equitable distribution of the quotas, since allotments resulting there-

² Section 301 (e) of the act provides that this condition shall not apply to the first crop harvested after the enactment of the act. Hence the condition is not applicable to the 1938 crop in Puerto Rico.

³ The marketing allotments made to processors by this method resulted in allotments practically identical with those that would have been made had the allotments been based on the marketings of processors during the years 1931, 1932, and 1934. The maximum variation amounted to 0.619% and the minimum variation amounted to 0.002%. In the majority of cases the variation was less than 0.1 of 1%.

⁴ Since no payments were made with respect to the 1937 crop of sugarcane in Puerto Rico, the allotments were made solely for purpose of computing allotments to processors.

from would not protect the interest of individual producers of sugarcane in Puerto Rico.⁵ It is believed that the act contemplates the allotment of the quota which will be fair and equitable to producers of sugar beets and sugarcane, as well as those who market the sugar made therefrom. If allotments were made on any basis other than that proposed, individual producers in Puerto Rico would have no assurance that they would be able to market the entire amount of their proportionate shares.

At the time of the issuance of the notice of the hearing of May 3, all interested persons were furnished with proposed allotments (Government Exhibits 1 and 8) based upon the determination of proportionate shares for the 1938 crop of sugarcane in Puerto Rico, which determination was issued by the Secretary on January 11, 1938 (Government Exhibit No. 14). The proposed allotment of each processor represented the sum of the proportionate share made to the processor as producer plus the proportionate shares to individual producers whose 1938 crop the processor has agreed to grind. The proposed allotments were based upon contracts for grinding made by processors up to April 6, 1938. At the hearing of May 3, however, there was introduced in evidence the sum of the proportionate shares of sugarcane which processors had contracted to grind up to April 30, 1938 (Government Exhibit No. 11). The total includes also any proportionate share established for the processor under the Secretary's determination.

The evidence presented at the hearing shows that on April 30, 1938, Puerto Rican processors had commitments for grinding proportionate shares of sugarcane of the 1938 crop (including administration sugarcane) in the following amounts (Government Exhibit 11) :

Processors			
	Summation of 1938 Proportionate Shares	Summation of 1938 Proportionate Shares	
Aguirre (3 mills)-----	108,082	Rochelaise-----	9,791
Cambalache-----	44,654	Roig-----	29,250
Canovanes-----	34,315	Rufina-----	30,367
Carmen-----	16,468	San Vicente-----	36,823
Coloso-----	37,386	Santa Barbara-----	2,881
Constancia-Toa-----	23,653	Soller-----	7,452
El Ejemplo-----	14,124	Vannina-----	16,765
Eureka-----	15,107	Victoria-----	18,333
Fajardo-----	66,115	Eastern Sugar Associates-----	93,849
Guanica-----	103,627	San Francisco-----	6,435
Guamani-----	12,220	Caribe-----	7,047
Herminia-----	2,126	Constancia-Ponce-----	8,441
Igualdad-----	17,968	Mercedita-----	37,786
Juanita-----	22,043	Boca Chica-----	16,387
Lafayette-----	32,107		
Piazuela and Los Canos-----	42,213	Total-----	951,284
Monserrate-----	13,116	Reserve for future allotment-----	2,594
Pellejas-----	2,817		
Plata-----	13,331		
Playa Grande-----	8,205		

⁵ Eastern Sugar Associates and Central Igualdad contend that allotments should be made on the basis of past marketings or ability to perform (pages 18, 37, and 38 of the record of hearing of January 14 and page 132 of record of hearing of May 3). None of the other 32 processors of sugarcane in Puerto Rico has objected.

The reserve for future allotment represents proportionate shares which on April 30, 1938, were not under contract for grinding. The total of the proportionate shares of 953,878 short tons of sugar represents the amount of sugar which the Secretary estimated to be necessary to enable Puerto Rico to meet its 1938 quota and provide a normal carry-over inventory (Government Exhibit No. 13).

On the basis of the record of the hearings, I hereby find:

1. That for the calendar year 1938 Puerto Rican processors of sugar will have available for market 1,137,000 short tons of sugar.
2. That for the calendar year 1938 Puerto Rican processors of sugar will have supplies in excess of quota requirements of 253,000 short tons of sugar.
3. That as of April 30, 1938, Puerto Rican processors had commitments to grind proportionate shares of sugarcane of the 1938 crop in the following amounts:

Processors

	<i>Summation of 1938 Proportionate Shares</i>		<i>Summation of 1938 Proportionate Shares</i>
Aguirre (3 mills)-----	108,082	Rochelaise-----	9,791
Cambalache-----	44,654	Roig-----	29,250
Canovanas-----	34,315	Rufina-----	30,367
Carmen-----	16,468	San Vicente-----	36,823
Coloso-----	37,386	Santa Barbara-----	2,881
Constancia-Toa-----	23,658	Soller-----	7,452
El Ejemplo-----	14,124	Vannina-----	16,765
Eureka-----	15,107	Victoria-----	18,333
Fajardo-----	66,115	Eastern Sugar Associates-----	93,849
Guanica-----	103,627	San Francisco-----	6,435
Guamani-----	12,220	Caribe-----	7,047
Herminia-----	2,126	Constancia-Ponce-----	8,441
Igualdad-----	17,968	Mercedita-----	37,786
Juanita-----	22,043	Boca Chica-----	16,387
Lafayette-----	32,107	Total-----	951,284
Piazuela and Los Canos-----	42,213	Reserve for future allotment-----	2,594
Monserrate-----	13,116		953,878
Pellejas-----	2,817		
Plata-----	13,331		
Playa Grande-----	8,205		

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearings of January 14 and May 3, 1938, and the objections filed in opposition to the proposed order allotting the 1938 sugar quotas for Puerto Rico,⁶ I hereby determine and conclude that the allotment of the 1938 sugar quota for Puerto Rico for the continental United States and the 1938 sugar quota for Puerto Rico for local consumption is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made on the basis of proportionate shares, determined pursuant to section 302 of the act, by multiplying the sum of the 1938 proportionate shares of sugarcane to be ground by each processor (based on contracts as of

⁶ Following the hearing of May 3, the Secretary on June 3, 1938, issued a proposed order which was published in the Federal Register on June 7, 1938, 3 F. R. 1337 (DI). Interested persons were given until June 15, 1938, in which to file objections to the proposed order. Eastern Sugar Associates was the only processor filing objections to the proposed order.

April 30, 1938) (1) by 84.879722⁷ per centum to obtain the continental United States marketing allotment, (2) by 7.742185⁸ per centum to obtain the marketing allotment for local consumption, and (3) by 7.3780924⁹ per centum to obtain a normal carry-over inventory.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the said quantity of 809,649 short tons, raw value, and the said quantity of 73,851 short tons, raw value, of sugar, representing the 1938 quota for Puerto Rico for the continental United States and the 1938 quota for local consumption in Puerto Rico, respectively, shall be allotted to the following processors in the amounts which appear opposite their respective names:

Processors

	<i>Continental Allotment</i> <i>U. S. for local</i> <i>Marketing consump-</i> <i>tion allotment</i>		<i>Continental Allotment</i> <i>U. S. for local</i> <i>Marketing consump-</i> <i>tion allotment</i>		
Aguirre (3 mills)-----	91,740	8,368	Rochelaise-----	8,311	758
Cambalache-----	37,902	3,457	Roig-----	25,522	2,265
Canovanas-----	29,126	2,657	Ruffna-----	25,775	2,351
Carmen-----	13,978	1,275	San Vicente-----	31,255	2,850
Coloso-----	31,733	2,894	Santa Barbara-----	2,445	223
Constancia-Toa-----	20,077	1,831	Soller-----	6,325	577
El Ejemplo-----	11,988	1,093	Vannina-----	14,230	1,298
Eureka-----	12,823	1,170	Victoria-----	15,562	1,420
Fajardo-----	56,119	5,119	Eastern Sugar As- sociates-----	78,965	7,266
Guanica-----	87,958	8,023	San Francisco-----	5,462	498
Guamani-----	10,372	945	Caribe-----	5,981	546
Herminia-----	1,805	165	Constancia-Ponce---	7,165	654
Igualdad-----	15,251	1,391	Mecedita-----	32,073	2,925
Juanita-----	18,710	1,707	Boca Chica-----	13,909	1,269
Lafayette-----	27,252	2,486	Total-----	807,447	73,650
Plazuela and Los Canos-----	35,830	3,268	Reserve for future allotment-----	2,202	201
Monserrate-----	11,133	1,016			
Pellejas-----	2,391	218			
Plata-----	11,315	1,032			
Playa Grande-----	6,964	635			
				809,649	73,851

2. That the above-named processors are hereby prohibited from bringing into the continental United States from Puerto Rico, for consumption during the calendar year 1938, or from marketing locally in Puerto Rico during the calendar year 1938, any sugar in excess of the respective marketing allotments therefor set forth in paragraph 1.

3. That the quantity of sugar specified in paragraph 1 as "Reserve for future allotment" shall be allotted to processors who contract to grind the proportionate shares represented thereby, and the allotments of such processors set forth above shall be increased accordingly.

⁷ Percentage which the quota for marketing in the continental United States is of 1938 quota requirements plus a normal carry-over inventory.

⁸ Percentage which the quota for local consumption is of the 1938 quota requirements plus a normal carry-over inventory.

⁹ Percentage which the normal carry-over inventory is of the 1938 quota requirements plus a normal carry-over inventory.

4. That any increase or decrease in the 1938 sugar quotas for Puerto Rico shall be prorated among processors on the basis of the allotments set forth above.

5. That the allotments established above shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.



In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 21st day of June, 1938.

H. A. Wallace

Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE
SUGAR DIVISION—WASHINGTON, D. C.

No. 12, suppl. 1
JAN 20 1939
SUGAR DIVISION
U. S. GOVERNMENT PRINTING OFFICE: 1938

[Puerto Rico Sugar Order No. 12, Supplement 1]

SUPPLEMENT TO DECISION AND ORDER OF THE SECRETARY OF
AGRICULTURE ALLOTTING THE 1938 SUGAR QUOTAS FOR PUERTO
RICO

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

Whereas, General Sugar Quota Regulations Series 5, No. 1, Revision 1, Supplement 2, increased the 1938 sugar quota for Puerto Rico for marketing in the continental United States by 5,933 short tons of sugar, raw value, and

Whereas, Puerto Rico Sugar Order No. 12, issued June 21, 1938, provided that any increase in the 1938 sugar quotas for Puerto Rico should be prorated among Puerto Rican processors on the basis of the allotments set forth therein, and

Whereas, all interested Puerto Rican processors have waived their right to a hearing with respect to this supplement to Puerto Rico Sugar Order No. 12, as provided in Section 205 (a) of the Sugar Act of 1937.

Now, THEREFORE, upon the basis of the foregoing and pursuant to the authority vested in the Secretary of Agriculture by section 201 (a) of the said act, it is hereby ordered that the continental United States marketing allotments set forth in Puerto Rico Sugar Order No. 12, be, and they hereby are, increased as follows:

Puerto Rican Processors:	Additional Continental United States Marketing Allotment	Puerto Rican Processors:	Additional Continental United States Marketing Allotment	Puerto Rican Processors:	Additional Continental United States Marketing Allotment
Aguirre-----	672	El Ejemplo-----	88	Playa Grande-----	51
Boca Chica-----	102	Eureka-----	95	Plazuela-----	264
Cambalache-----	280	Fajardo-----	413	Rochelaise-----	61
Canovanas-----	214	Guanami-----	76	Roig-----	182
Caribe-----	44	Guanica-----	645	Rufina-----	189
Carmen-----	103	Herminia-----	13	San Francisco-----	40
Coloso-----	233	Igualdad-----	112	Santa Barbara-----	18
Con stancia a Ponce-----	53	Juanita-----	137	San Vicente-----	230
Con stancia a Toa-----	147	Lafayette-----	200	Soller-----	47
Eastern Sugar Associates-----	584	Mercidita-----	235	Vannina-----	105
		Monserrat-----	82	Victoria-----	117
		Pellejas-----	18		
		Plata-----	83	Total-----	5,933

IN TESTIMONY WHEREOF, I, H. A. WALLACE, Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of December, 1938.



H. A. Wallace
Secretary of Agriculture.

